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INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70) 10/519071



Rec'd PCT/PTO 23 DEC 2004

Applicant's or agent's file reference P25922PC00/JV	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)	
International application No. PCT/NL 03/00470	International filing date (day/month/year) 26.06.2003	Priority date (day/month/year) 26.06.2002
International Patent Classification (IPC) or both national classification and IPC A22C7/00		
Applicant STORK TITAN B.V. et al.		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 6 sheets, including this cover sheet.
- ☒ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).
- These annexes consist of a total of 1 sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the opinion
- II ☐ Priority
- III ☒ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand 09.01.2004	Date of completion of this report 14.09.2004
Name and mailing address of the International preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer Acerbis, G Telephone No. +49 89 2399-6895 

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International application No. **PCT/NL 03/00470**

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-32 received on 08.09.2003 with letter of 08.09.2003

Claims, Numbers

2-7, 9-62 received on 08.09.2003 with letter of 08.09.2003

1, 8 received on 15.06.2004 with letter of 15.06.2004

Drawings, Sheets

1/15-15/15 received on 08.09.2003 with letter of 08.09.2003

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
- ☐ the claims, Nos.:
- ☐ the drawings, sheets:

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5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

III. Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

1. The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious), or to be industrially applicable have not been examined in respect of:

☐ the entire international application,

☒ claims Nos. 19-40, 41-48 (insofar they are dependent on claims 19-26 or 34-40), 49-62

because:

☐ the said international application, or the said claims Nos. relate to the following subject matter which does not require an international preliminary examination (specify):

☐ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. are so unclear that no meaningful opinion could be formed (*specify*):

☐ the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.

☒ no international search report has been established for the said claims Nos. 19-40, 41-48 (insofar they are dependent on claims 19-26 or 34-40), 49-62

2. A meaningful international preliminary examination cannot be carried out due to the failure of the nucleotide and/or amino acid sequence listing to comply with the standard provided for in Annex C of the Administrative Instructions:

☐ the written form has not been furnished or does not comply with the Standard.

☐ the computer readable form has not been furnished or does not comply with the Standard.

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1-18,41-48 (insofar they are dependent on claim 1 or 8)
	No: Claims	
Inventive step (IS)	Yes: Claims	
	No: Claims	1-18,41-48 (insofar they are dependent on claim 1 or 8)
Industrial applicability (IA)	Yes: Claims	1-18,41-48 (insofar they are dependent on claim 1 or 8)
	No: Claims	

2. Citations and explanations

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see separate sheet

Re Item V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Reference is made to the following documents:

D1: US-A-3 205 837 (FAY RUDOLPH J) 14 September 1965 (1965-09-14)

D2: WO 00 30458 A (NIEUWELAAR ADRIANUS J VAN DEN (NL) 02 June 2000
(2000-06-02) cited in the application

2. The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claims 1 and 8 does not involve an inventive step in the sense of Article 33(3) PCT.

2.1. Document D1 (column 1 lines 20 to 24, column 1 lines 36 to 54, column 2 line 43 to column 3 line 6), which is considered to represent the closest prior art, discloses all the technical features of present independent claims 1 and 8, in particular it discloses a way to eliminate simultaneously the adhesion forces between the mould and the product, namely with air (see also column 3 lines 1 to 20).(cf. claims 1 and 8).

2.2. The subject-matter of claims 1 and 8 differs from what is known from D1 in the provision of the steps and the means for closing the open side of the mould cavity and holding the mass in the closed mould cavity.

2.3. This technical features can be seen as solving the problem of retaining the shape after filling.

2.4. However the solution proposed cannot be seen as involving an inventive step because the use of the same technical feature for solving the same problem is described in D2 (see page 3 lines 37 - 38; page 11 lines 17 - 23; page 17 lines 10 - 21; figures).

2.5. Therefore the subject matter of claims 1 and 8 lack inventive step.

3. Dependent claims 2 -7, 9-18, 41-48 (insofar they are dependent on claim 1 or 8) do not

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contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty and/or inventive step, see the documents and the corresponding passages cited in the search report.